

Exhibit 12

Kaplan v. First Hartford

6/3/2005

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

 COPY

RICHARD E. KAPLAN,)
 Plaintiff,)
)
 vs)
)
FIRST HARTFORD CORPORATION,) 04-10402-NMG
 Defendant.)

Deposition of: NEIL H. ELLIS

Taken before Tina M. Davis, Stenographer and
Notary Public in and for the State of Connecticut,
pursuant to notice, at the offices of
DAY, BERRY & HOWARD, CityPlace I, 185 Asylum Street,
Hartford, Connecticut, on Friday, June 3, 2005
scheduled to commence at approximately 10:00 a.m.

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1 father?

2 MR. NOLAN: Objection to the form of the
3 question.

4 BY MR. KENNA:

5 Q. Is that correct?

6 A. Not solely that, no.

7 Q. Well, what are you referring to when you say the
8 family feud, sir?

9 A. What am I referring to?

10 Q. Yes.

11 A. A feud that has taken place in the family for
12 many, many years.

13 Q. Okay. Well, I'm just --

14 A. This case, in my opinion, being one of them.

15 Q. Well, before you mentioned this case, all I heard
16 you testify about was a case where you sued your father.
17 That's part of --

18 MR. NOLAN: That was --

19 A. No. I'm talking about this case here, Mr. Kenna.

20 BY MR. KENNA:

21 Q. Let me ask my questions, and then --

22 A. Please do.

23 Q. -- you can answer them.

24 MR. NOLAN: I think you did ask a question
25 and you got an answer, and now you're trying to conflict

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1 it with something else.

2 MR. KENNA: It's permissible.

3 MR. NOLAN: I understand it --

4 MR. KENNA: It's absolutely permissible.

5 MR. NOLAN: And wasting time is always

6 permissible.

7 MR. KENNA: No. It's not wasting time.

8 MR. NOLAN: I'll just remind you that we

9 have to leave here at 3:00 today.

10 MR. KENNA: Well, it's ten minutes after

11 10:00 in the morning, and we've been at this for about

12 five or ten minutes.

13 MR. NOLAN: No. 15 actually.

14 MR. KENNA: 15 minutes.

15 MR. NOLAN: And you've asked zero questions

16 that have anything to do with this litigation, but it's

17 your deposition.

18 MR. KENNA: Well, it's my deposition.

19 MR. NOLAN: Go ahead.

20 MR. KENNA: And obviously this was something

21 that was significant to Mr. Ellis, having reviewed this

22 before coming in here today.

23 MR. NOLAN: Well, that's your spin,

24 Mr. Kenna, and your conclusion. I didn't hear him say

25 that it was significant to him. You asked him a

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1 question, and he answered it.

2 MR. KENNA: I'm asking him now what his
3 purpose was in reviewing that, and that's where we're
4 going.

5 MR. NOLAN: Go ahead.

6 MR. KENNA: He said it had to do with the
7 family feud, and now I want to find out what he means
8 when he says the family feud.

9 MR. NOLAN: You're talking about this family
10 feud.

11 MR. KENNA: I want to know what he -- let me
12 ask the questions.

13 MR. NOLAN: Okay.

14 MR. KENNA: And let him go ahead and answer
15 the questions as best he can. We'll really make
16 progress.

17 MR. NOLAN: Tell him about the family feud,
18 Mr. Ellis.

19 BY MR. KENNA:

20 Q. What do you mean when you say the family feud?

21 A. I mean the numerous -- the entity between the
22 Kaplan family and the Sidney Ellis family and myself,
23 probably as best epitomized by the trial, and that's why
24 I was amused today. When Mr. Seymour Kaplan was called
25 in as a witness, the attorney for Mr. Sidney Ellis

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1 Certain Business Relationships?

2 MR. NOLAN: Mr. Kenna, there's some
3 highlighting on that. Is that on the original exhibit?

4 MR. KENNA: That is the exhibit.

5 MR. NOLAN: I understand. There's
6 highlighting on it.

7 MR. KENNA: That's the exhibit. Do you
8 remember we discussed this?

9 MR. NOLAN: I can see across --

10 MR. KENNA: That is the exhibit, the
11 original exhibit, Exhibit 13.

12 MR. NOLAN: You have colored highlighting on
13 your copy.

14 MR. KENNA: Probably it's the way it was
15 copied. This is not the exhibit, sir. This is a copy
16 of the exhibit, all right, what I have in my hand.

17 MR. NOLAN: Yes. But what you have in your
18 hand has pink ink on it; correct?

19 MR. KENNA: Is that a problem?

20 MR. NOLAN: I'm trying to determine where
21 the highlighting came from?

22 MR. KENNA: My guess is that this might have
23 been copied and the pink didn't come out as pink, it
24 came out the way it came out on that exhibit.

25 MR. NOLAN: How did the pink get on it?

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1 That's my question. You have in your hand something
2 that's pink, that pink copying. Did you put that on?

3 MR. KENNA: I may have.

4 MR. NOLAN: Oh, okay. I'm only trying to
5 find out just so that the record is clear.

6 MR. KENNA: Oh, okay. I think we went over
7 this at the 30(b)(6).

8 MR. NOLAN: I don't recall that you did.
9 Maybe you did. I wasn't there.

10 MR. KENNA: Yes, you were.

11 MR. NOLAN: Was I?

12 MR. KENNA: Sure. You represented the
13 deponent.

14 MR. NOLAN: It must have been so fascinating
15 that I forgot about it.

16 Okay. Let's go on.

17 MR. KENNA: What Mr. Ellis has in front of
18 him is the exhibit that was marked at the 30(b)(6)
19 deposition. The sticker is right on it.

20 MR. NOLAN: The sticker is on the first
21 page.

22 MR. KENNA: Yes.

23 MR. NOLAN: I'm not going to make a big deal
24 out of this. It's unclipped or unstapled I should say.

25 MR. KENNA: Let me get back to the

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1 A. There's a shopping center in Lubbock, yes.

2 That's referred to by --

3 Q. Is there a shopping center down there that at one
4 time First Hartford Corporation had a significant
5 interest in, ownership interest in, and that ownership
6 interest went to the Journal Publishing Company?

7 MR. NOLAN: Objection to the form of the
8 question.

9 BY MR. KENNA:

10 Q. Is there? Yes or no.

11 A. Would you repeat the question?

12 Q. I want to know if there is a shopping center down
13 in Lubbock, Texas that at one time
14 First Hartford Corporation had a significant ownership
15 interest in that at some point in time that ownership
16 interest went to the Journal Publishing Company?

17 MR. NOLAN: Objection to the form of the
18 question. What do you mean by significant? Do you mean
19 in terms of value?

20 BY MR. KENNA:

21 Q. Can you answer the question?

22 MR. NOLAN: No. You define what you mean
23 by --

24 MR. KENNA: No, no, no.

25 MR. NOLAN: I'm instructing him not to

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1 answer it.

2 MR. KENNA: You're instructing him not to
3 answer that question?

4 MR. NOLAN: Yes. Unless you're willing to
5 clarify your question so it makes some sense.

6 MR. KENNA: You're obstructing the
7 deposition.

8 MR. NOLAN: Don't point your finger at me.

9 MR. KENNA: I will point my finger.

10 MR. NOLAN: Don't --

11 MR. KENNA: If you obstruct, I will point my
12 finger at you.

13 MR. NOLAN: I am not. I asked you to
14 clarify your question. You used the word significant,
15 and that has any number of meanings. Unless you're
16 willing to state --

17 MR. KENNA: If the witness doesn't
18 understand it -- and you know what the rules are,
19 Mr. Nolan.

20 MR. NOLAN: I understand what the rules are
21 perfectly. I've been doing this for a long time.

22 MR. KENNA: You're violating them right now.

23 MR. NOLAN: No. That's your opinion. You
24 know what your remedies are.

25 I'm not going to let him answer a question

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1 like that.

2 MR. KENNA: You're violating the rules.

3 MR. NOLAN: Thank you.

4 MR. KENNA: Make your objections.

5 MR. NOLAN: Move on.

6 MR. KENNA: I'm not going to move on.

7 MR. NOLAN: I'm objecting to the form of the
8 question.

9 MR. KENNA: All right. I understand.
10 That's good. Let's leave it at that from now on.
11 That's what you're entitled to do.

12 MR. NOLAN: I'm entitled to do what I choose
13 to do within the rules.

14 MR. KENNA: Within the rules.

15 MR. NOLAN: You bet.

16 MR. KENNA: All right. Your rules, I take
17 it, not the rules of the Court.

18 BY MR. KENNA:

19 Q. I'm asking about a shopping center in Lubbock,
20 Texas. I think we've talked about it for the last half
21 an hour or more, but I'll ask again. Is there a
22 shopping center currently in Lubbock, Texas that at one
23 time either First Hartford Corporation or one of its
24 subsidiaries had as much as a 75 percent or 95 percent
25 interest, ownership interest in the project, that that

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1 Q. You don't think that they do?

2 A. I said I would doubt it.

3 Q. What makes you say you doubt it?

4 A. Because the numbers are a little bit different.

5 MR. NOLAN: You've already pointed that out,

6 Mr. Kenna, in your questions that they're different.

7 MR. KENNA: Well, of course the numbers are

8 different. I'm asking about a balance that was owed

9 according to the proxy statement in December of 2003 of

10 1.9 million --

11 A. Uh-huh.

12 Q. -- to you or entities owned by you.

13 A. Uh-huh.

14 Q. And here a reference of a balance owed one year

15 later of a million --

16 A. Owned or owed?

17 Q. Owed.

18 -- of \$1,156,177.

19 A. Yes.

20 Q. Let me ask my question. During the course of the

21 year from December of 2003 to the December of 2004, did

22 First Hartford Corporation pay you or companies owned or

23 controlled by you approximately \$800,000?

24 A. I don't know. You'd have to ask Mr. Greenwald.

25 Q. Between December of 2003 and December of 2004, do

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1 you know?

2 MR. NOLAN: Just a minute. I'm going to --

3 MR. KENNA: No, no, no. Stop right no.

4 MR. NOLAN: Don't you tell me to stop.

5 Don't you tell me to stop.

6 MR. KENNA: This is really getting a little
7 bit out of control, Mr. Nolan.

8 MR. NOLAN: I don't think so.

9 MR. KENNA: Yes. Because you're coaching
10 the witness.

11 MR. NOLAN: I'm not coaching. You're the
12 one trying to mislead him.

13 MR. KENNA: I am not trying to mislead him.

14 MR. NOLAN: This talks about loans which
15 were obtained by Mr. and Mrs. Ellis for the benefit of
16 First Hartford.

17 MR. KENNA: You're saying they're not the
18 same loans?

19 MR. NOLAN: I'm not saying one way or the
20 other. I'm saying you're trying to conflate several
21 different concepts and several different transactions.
22 He's already told you he doesn't know whether --

23 MR. KENNA: You heard my question. All
24 right.

25 MR. NOLAN: You don't have a question.

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1 MR. KENNA: I asked a question that had
2 nothing to do with whether they're the same loans or
3 they're not the same loans. All right?

4 MR. NOLAN: You're talking about a balance.

5 MR. KENNA: I'm trying to move this
6 deposition along. All right?

7 MR. NOLAN: No, you're not, because you're
8 talking about a balance --

9 MR. KENNA: You're coaching the witness.

10 MR. NOLAN: -- that has several variables in
11 it.

12 MR. KENNA: You are obstructing this
13 deposition. It's plain and simple as the nose on my
14 face.

15 MR. NOLAN: Well, I'll leave that alone.

16 I am objecting to you conflating several
17 different transactions that have several different
18 variables and taking documents from one year to the next
19 and asking questions as if they're the same thing. I
20 think that's misleading and unfair.

21 MR. KENNA: Okay. You made your statement.

22 MR. NOLAN: And improper.

23 BY MR. KENNA:

24 Q. The prior question was whether you have any
25 recollection, Mr. Ellis, as we sit here today, whether

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1 between December of 2003 and December of 2004
2 First Hartford Corporation paid you or any entity or
3 entities owned or controlled by you the sum of
4 approximately \$800,000?

5 A. What do you mean by the word paid?

6 Q. Did they give you cash, \$800,000 in cash?

7 A. No.

8 Q. Did they give you a check for \$800,000?

9 A. No.

10 Q. Did they credit some amount of money that you say
11 was owed to you by First Hartford Corporation or owed to
12 one of your entities by the sum of approximately
13 \$800,000 during that period of time?

14 A. I don't know.

15 Q. Is it correct as we look at the proxy statement
16 of Exhibit 13, the proxy statement for the most recent
17 meeting that was held in February of 2005, that you
18 have -- that you are owed \$1,156,177 by
19 First Hartford Corporation as of December 31, 2004?

20 A. Who is "you"?

21 Q. Pardon?

22 A. Who is "you"?

23 MR. NOLAN: In your question, who is "you"?

24 MR. KENNA: All right.

25